



EXHIBIT 1  
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SB SB 231

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## **Testimony of Montana Association of REALTORS® (MAR)**

**Glenn Oppel, Government Affairs Director**

**House Local Government Committee**

**Mar. 10, 2009, 3:00 p.m., Rm 172**

### **Senate Bill 231 – Revise the impact fee enabling act to require service area report Sponsor: Sen. Rick Laible**

Senate Bill 231 passed with bipartisan support in the Senate Local Government Committee and on the Senate floor.

### **Background**

Senate Bill 185 was enacted in 2005 to authorize local governments to impose impact fees. It was the work of a consensus group of stakeholders including REALTORS®, builders, counties, cities, planners, and others. The enabling Act was designed to allow impact fees that require new development to "pay its way," but no more than its way. In other words, impact fees must comply with what is called nexus and proportionality.

Since enactment of the Impact Fee Act, local governments have been moving forward with implementing various types of impact fees – the City of Kalispell just adopted transportation impact fees last night.

As the regulated community and a homeownership advocacy group, MAR has been monitoring the process of local impact fee implementation closely because we believe that illegal and unfair impact fees are a major threat to workforce housing affordability, in particular in some of our higher growth areas.

### **The Problem**

In the process of monitoring implementation of impact fees, MAR, with the help of the National Association of REALTORS®, conducted compliance analyses (see attached) of 4 impact fee studies, including:

- Bozeman's transportation impact fee
- Hamilton's water and wastewater impact fees
- Kalispell's transportation impact fee

Each analysis concluded that the local government failed to comply with the requirements in the Impact Fee Act because these cities relied on, and merely referenced, external planning documents that were developed for purposes other than the calculation of an impact fee. For example, the Bozeman transportation impact fee study referenced its *Greater Bozeman Area Transportation Plan* and its *Capital Improvement Plan*. However, the study did not demonstrate how the improvements identified in these plans translated to costs associated with new development. Both Hamilton and Kalispell's studies suffer from the same shortcoming.

The problem with this practice is that the referenced documents are assumed to distinguish between which capital improvements are necessary for *projected growth* versus which capital improvements are necessary for the *future service needs of existing users*. This is, on its face, a violation of requirements of the Impact Fee Act.

Because there is no clear distinction in any of the studies analyzed so far by MAR, we have to conclude that either the city failed to comply with the Impact Fee Act or that compliance is uncertain or inconclusive. Uncertainty regarding compliance with state statute is not an option and fails to provide a predictable and transparent process for the regulated community and the public.

### **A Partial Solution**

MAR and others believe that if local governments were required to include all documentation utilized by an impact fee study in a single *Service Area Report*, it would foster compliance by local governments seeking to establish impact fee programs. With the Service Area Report, local governments would have to affirmatively demonstrate how, for example, their transportation or capital improvement plan meets the requirements of the Impact Fee Act, as opposed to merely referencing those documents.

Moreover, it would more likely provide regulatory certainty and transparency to the public. The public won't have to second guess whether the local government calculated a legal and fair impact fee. It will be apparent in the Service Area Report, which will draw a distinction between existing and future infrastructure needs based on projected growth. Finally, the Service Area Report will better protect local governments from lawsuits that could arise from noncompliance with the Impact Fee Act.

MAR strongly recommends a "do pass" on Senate Bill 231.

## ANALYSIS OF SELECTED MUNICIPAL IMPACT FEE PROGRAMS RELATIVE TO IMPACT FEE STATUTE

### BACKGROUND

In 2005, Montana enacted the Impact Fee Act (the "Act"), codified at Title 7, Chapter 6, Part 1601 to 1604, of the Montana Code Annotated ("MCA"), thereby authorizing municipalities to establish and collect impact fees "as part of the development approval process to fund the additional service capacity required by the development from which it is collected." MCA § 7-6-1601(5)(a). Such fees must be "reasonably related to and reasonably attributable to the development's share of the cost of the infrastructure improvements made necessary by the new development" and "may not exceed a proportionate share of the costs incurred or to be incurred by the governmental entity in accommodating the development." They may not be used to generate revenues to pay for the "costs for correction of existing deficiencies in a public facility or for "expenses for operations and maintenance of the facility." MCA § 7-6-1602 (5). To this end, before implementing an impact fee program, the Act requires a municipality to "prepare and approve documentation" that:

- (a) describes existing conditions of the facility;
- (b) establishes level of service standards;
- (c) forecasts future additional needs for service for a defined period of time;
- (d) identifies capital improvements necessary to meet future needs for service;
- (e) identifies those capital improvements needed for continued operation and maintenance of the facility;
- (f) makes a determination as to whether one service area or more than one service area is necessary to establish a correlation between impact fees and benefits;
- (g) makes a determination as to whether one service area or more than one service area for transportation facilities is needed to establish a correlation between impact fees and benefits;
- (h) establishes the methodology and time period over which the governmental entity will assign the proportionate share of capital costs for expansion of the facility to provide service to new development within each service area;
- (i) establishes the methodology that the governmental entity will use to exclude operations and maintenance costs and correction of existing deficiencies from the impact fee;
- (j) establishes the amount of the impact fee that will be imposed for each unit of increased service demand; and
- (k) has a component of the budget of the governmental entity that:
  - (i) schedules construction of public facility capital improvements to serve projected growth;
  - (ii) projects costs of the capital improvements;
  - (iii) allocates collected impact fees for construction of the capital improvements; and
  - (iv) covers at least a 5-year period and is reviewed and updated at least every 2 years.

## EXECUTIVE SUMMARY

### Review Approach

Since the Act's passage, at least three municipalities have implemented impact fees: Bozeman, Kalispell, and Hamilton. This memorandum reviews each of the studies developed in support of the impact fee program in each of these three municipalities in order to evaluate the extent to which each municipality's public facility study is consistent with the requirements of the Act. We limited our review to the supporting studies provided to us and we did not review the other documents referenced in these supporting studies.

In addition to the general conclusions presented in this memorandum, we have prepared a chart to summarize our review of these supporting studies for consistency with the Act. For each element of an impact fee program required under the Act, we have determined whether the supporting study is Consistent ("C"), its Consistency is Uncertain ("CU"), Inconsistent ("I"), or Not Applicable ("N/A") with the Act. Each category has the following meaning:

- "C" Indicates that the supporting study satisfies that particular requirement of the Act.
- "CU" Indicates that the supporting study either:
  - (1) relies on an external planning document to satisfy this element of the Act but does not demonstrate how the external document does, in fact, meet this requirement, or
  - (2) the external document appears to be outdated.

For example, Appendix M to the Tindale-Oliver & Associates Study for Bozeman is a Memorandum from the Department of Planning and Community Development that addresses "Compliance with MCA Requirements for Street Impact Fee Development" and cites to MCA §7-6-1602 for the conclusion that "[t]he statute leaves to the judgment of each community where each piece of information is organized." We note that MCA §7-6-1602 (2) does state that "[t]he data sources and methodology supporting the adoption and calculation of an impact fee must be available upon request." It is not clear, however, that MCA §7-6-1602 authorizes the approach taken by Bozeman and the other municipalities for satisfying the documentation requirements of the Act. Each of the three studies relies upon the City's Capital Improvement Program ("CIP") but does not address how their CIP satisfies the budgetary requirements set forth at MCA § 7-6-1602.1(k). Since the CIP is not included in each study, it is impossible to fully assess whether the study in each case satisfies the Act's requirements that the City budget include a schedule for future improvements, estimate the costs for each future improvement, and allocate the impact fees to the construction of these future projects. See MCA § 7-6-1602.1(k).

So if the supporting study relies upon an external document that either appears out of date or does not explain how that external document satisfies the requirements of the Act, we have given the supporting study a Consistency Uncertain ("CU") designation.

- "I" Indicates that the supporting study does not address that particular requirement under the Act. For example, each study did not show a calculation of costs for

correcting deficiencies in existing systems and, therefore, each study would appear to be inconsistent in that respect with MCA § 7-6-1602.5(c).

- "N/A" Indicates that this element of the Act is not relevant to the particular impact fee program. For instance, if the municipality did not opt to include administrative costs in the amount of the impact fee, as allowed under MCA § 7-6-1601.5(a), this element was treated as "N/A."

### Summary of Conclusions

Part 1602 of the Act requires that each City establish a detailed methodology to demonstrate how the amount of the impact fee only includes the costs associated with infrastructure required to serve the increased demand resulting from new development. To this end, the Act requires that each City document the current level of service, MCA § 7-6-1602.1(b), forecast future additional needs for a defined period of time, MCA § 7-6-1602.1(c), and identify the capital improvements needed to service that future demand, MCA § 7-6-1602.1(d). Finally, the Act requires that the City establish a methodology and time period over which it assigns the proportionate share of capital costs for expansion of the facility to provide service to new development (broken down by each service area, if applicable). See MCA § 7-6-1602.1(h). Arguably, the Association could take the position that these provisions, reasonably construed, require supporting documentation and/or analyses specifically designed to satisfy the methodological requirements under the Act.

Because each City relied on external planning documents that were developed for purposes other than the calculation of an impact fee, because each used different planning timelines and different planning methodologies, it is at least questionable whether they supply the level of detail required under the Act.

In addition to setting forth a methodology that complies with MCA § 7-6-1602.1, the supporting study must also apply that methodology in accordance with MCA § 7-6-1602.5. Thus, the supporting study must demonstrate that the amount of the calculated impact fee is "reasonably related to and roughly attributable to" the new development's share of the cost of infrastructure improvements made necessary by the new development. See MCA § 17-6-1602.5(a). In other words, the amount of the impact fee "may not exceed a proportionate share of the costs incurred or to be incurred by the governmental entity in accommodating the development." See MCA § 17-6-1602.5(b). Moreover, the impact fee cannot include the costs for correcting deficiencies in an existing infrastructure facility or the costs for the operation and maintenance of such facilities. See MCA § 17-6-1602.5(c), (e). Finally, the future infrastructure improvements cannot be held to a higher level of service than the existing systems. See MCA § 17-6-1602.5(d). As before, arguably, these provisions can reasonably be construed as requiring supporting documentation and/or analyses specifically developed for the purpose of the impact fee program so that it may demonstrate how the final impact fee amount is properly derived from only the costs associated with new development. In each City, the supporting study does not explicitly show the costs associated with operation, maintenance, and correction of deficiencies in existing systems.

## ANALYSIS

### BOZEMAN

#### *Transportation Impact Fees*

Overall, the City of Bozeman Transportation Impact Fee Study, January 3, 2008, prepared by Tindale-Oliver & Associates, Inc. (the "Bozeman Study") suggests some effort was made to comply with the requirements of the Act. But the Bozeman Study may fall short in some respects. The City of Bozeman Transportation Impact Fee Study, January 3, 2008, prepared by Tindale-Oliver & Associates, Inc. (the "Bozeman Study") points to external planning documents to establish baseline conditions and levels of service. The Act requires that the City document the current level of service, MCA § 7-6-1602.1(b), forecast future additional needs for a defined period of time, MCA § 7-6-1602.1(c), and identify the capital improvement needed to service that need, MCA § 7-6-1602.1(d). Finally, the Act requires that the City establish a methodology and time period over which it assigns the proportionate share of capital costs for expansion of the facility to provide service to new development (broken down by each service area, if applicable). See MCA § 7-6-1602.1(h). Because of the Bozeman Study's reliance on external planning documents developed for purposes other than an impact fee calculation, it is possible that they do not supply the level of detail required under the Act.

#### Description of Existing Conditions and Established Level of Service

As required by MCA § 7-6-1602.1(b), the Bozeman Study refers to the Bozeman Municipal Code to identify the City's adopted policy for the level of service it seeks to maintain for its streets. However, the Bozeman Study does not provide an assessment of existing conditions and instead refers to the *Greater Bozeman Area Transportation Plan, 2001 Update* for this description. MCA § 7-6-1602.1(a).

#### Identification of Improvements Required for Operation and Maintenance versus Those Required To Serve New Demand

The Bozeman Study seems to fall short of meeting the requirements under MCA § 7-6-1602.1(d) and (e), whereby the City is required to identify future capital improvements needed to meet the demand created by new development. Rather, the Study suggests that it is during the annual update to the CIP that the City distinguishes between planned improvements that are needed to correct existing deficiencies and those that are needed because new growth has created an increased demand. The Study also suggests that this determination is based, in part, on an analysis of existing level of service standards but does not show how this is implemented in the actual calculation of the impact fee amounts arrived at in the report. MCA § 7-6-1602.5(d).

The Study relies on both the *Greater Bozeman Area Transportation Plan* and the City's CIP. The *Greater Bozeman Area Transportation Plan* has a twenty-year planning horizon. The CIP, which provides considerable detail with respect to expected project costs, is a five-year program of scheduled road construction and improvement projects that is updated annually to reflect the City's current budget constraints. The Bozeman Study does not show how each cost identified in the five-year CIP is reconciled with the improvements called for in the twenty-year Transportation Plan. See MCA § 1602.1(b), (c), and (d).

#### Determination of Service Area(s)

Though the Bozeman Study suggests that the impact fees are calculated according to CBD and non-CBD service areas, it is not clear how the projected costs for the improvements identified in the planning documents as supporting the impact fees are allocated by service area. See MCA § 7-6-1602.1(g).

#### Calculation of Costs for Correcting Existing Deficiencies and for Operation and Maintenance

The Bozeman Study does not demonstrate how the improvements identified in the *Greater Bozeman Area Transportation Plan* or the CIP translate to costs associated with new development. See MCA § 7-6-1602.1(h) and MCA § 7-6-1602.5(a), (c), and (e). That is, although the Study describes a precise methodology for extracting the operating and maintenance costs and the costs for correcting existing deficiencies from the future capital costs required to serve new development, the Study fails to calculate the costs for correcting existing deficiencies as well as the costs for the operation and maintenance of all improvements. See MCA § 7-6-1602.5(c) and (e). Therefore, there is no clear demonstration of how these requirements were satisfied when arriving at the amounts listed in Appendix F.

### HAMILTON

#### *Water and Wastewater Systems Impact Fees*

Overall, the City of Hamilton Impact Fees for the Water and Wastewater System, Final Report, February 2007, prepared by HDR Engineering, Inc. (the "Hamilton Utility Study"), provides only some of the detail needed to properly assess whether the Hamilton Utility Study satisfies the Act's requirements.

#### Description of Existing Conditions and Established Level of Service

As explained above, one component of determining which improvements are necessary to facilitate projected growth is to have a baseline understanding of current conditions, as required by MCA § 7-6-1602.1(a) and (b). Although the Hamilton Utility Study refers to studies of existing conditions, those studies are never identified in the report. See MCA § 7-6-1602.1(a). Likewise, the existing levels of service for the relevant infrastructure are not shown. See MCA § 7-6-1602.1(b).

The Hamilton Utility Study relies on the City's fixed asset records, the CIP, and the Water and Wastewater Facility Plan, 1996, prepared by Brown and Caldwell/WGM, for many of the assumptions used in projecting future growth and for estimating costs of future capital improvements. The underlying assumptions from these reports are not set forth in the Hamilton Utility Study. Thus, the Study may fall short of meeting the methodology requirements under the Act. See *supra* for a discussion of Act's methodology requirements set forth at MCA § 7-6-1602.1(b), (c), (d), and (h).

#### Determination of Service Area(s)

The Hamilton Utility Study concludes that only one service area is required, without making a finding that this is the most appropriate way to relate impact fees and benefits as required by MCA § 7-6-1602.1(f).

#### Amount Based on Actual Cost or Reasonable Estimate of Future Cost

The Study inflates historical costs for fixed assets to account for 10 years of interest. When calculating the impact fee amount, the Act requires that the "amount of each impact fee imposed must be based upon the actual cost of public facility expansion or improvements or reasonable estimate of the costs to be incurred by the governmental entity as a result of the new development." MCA § 7-6-1602.3. The Study's use of historical-cost-plus-10-years-of-interest does not account for the actual cost of the improvement or provide a reasonable estimate of future costs.

#### Calculation of Costs for Correcting Existing Deficiencies and for Operation and Maintenance

The Hamilton Utility Study implicitly assumes that all future capital improvements are necessitated by new development because it applies the costs for all future improvements to the total number of projected Equivalent Dwelling Units ("EDU"). However, the Study does not undertake an assessment of what future needs are demanded by the projected EDUs. Thus, the Study does not demonstrate whether the future improvements are necessary to accommodate future growth. See MCA § 7-6-1602.5(a) and (b). The Hamilton Utility Study implies that the future infrastructure capacity improvements were identified and planned in the referenced reports but does not mention the extent of such improvements. See MCA § 7-6-1602.1(d).

By including all costs in the impact fee calculation, the Hamilton Utility Study also improperly implies that certain costs for existing deficiencies are attributed to future development. See MCA § 7-6-1602.5(c). For instance, the water system impact fee includes existing wells and planned upgrades to existing wells. Likewise, the water system impact fee includes existing and future storage. Further, the water system impact fees calculates two fees for distribution — one for existing assets and one for future assets — and then sums both to determine the single impact fee for all new development. With respect to the wastewater system impact fee, the calculation allocates only future capital improvements for the collection system to future growth but allocates both existing and future assets related to the treatment facility to future growth. In short, the Hamilton Utility Study blurs the line between what is needed to meet future growth and what is needed to remedy existing conditions, a distinction which arguably is required under MCA § 7-6-1602.1(d) and MCA § 17602.5(a).

#### Transportation Impact Fees

Overall, the City of Hamilton Draft Report Impact Fees for the Transportation System, July 2006, prepared by HDR Engineering, Inc. (the "Hamilton Transportation Study"), sets forth an easily understood methodology.

#### Description of Existing Conditions and Established Level of Service

The Hamilton Transportation Study does not show existing conditions associated with the current transportation system. See MCA § 7-6-1602.1(a). But the Study does show the existing level of service ("LOS") for streets and intersections and does assert that future improvements will only be required to maintain the existing LOS. See MCA § 7-6-1602.1(b) and MCA § 7-6-1602.5(d).

In determining future afternoon peak hour vehicle trips, the projections for new population growth and employment growth were taken from the *Hamilton Transportation Plan* but the actual numbers were not shown and the assumptions underlying the projections were not



provided. The failure to include these details in the Study seems to fall short of the Act's requirement for documenting a methodology to forecast future needs over a defined period of time. MCA § 7-6-1602.1(c).

The City identified the proportion of the future capital improvements attributable to new development (*see* MCA § 7-6-1602.1(h)), by means of a "line by line" review of the identified future improvements to determine which would provide new capacity to development. The cost of each project, as identified in the CIP, was then adjusted to account for only the proportion of the project serving new development.

#### Determination of Service Area(s)

The Hamilton Transportation Study fails to address whether more than one transportation service area is required to properly relate impact fees to benefits. (*see* MCA § 7-6-1602.1(g)).

#### Calculation of Costs for Correcting Existing Deficiencies and for Operation and Maintenance

The Study fails to calculate the costs for correcting existing deficiencies as well as the costs for the operation and maintenance of all improvements. *See* MCA § 7-6-1602.5(c) and (e). Further, the Study fails to demonstrate how the amount of the calculated impact fee actually ensures that the new development is not held to a higher level of service than existing users. *See* MCA § 7-6-1602.5(d).

### **KALISPELL**

#### *Transportation Impact Fees*

The City of Kalispell, Revised Final Report, Impact Fees for the Transportation System, August 2008, prepared by HDR Engineering, Inc. (the "Kalispell Study") may also fall short of meeting the level of detail contemplated by the Act.

#### Description of Existing Conditions and Established Level of Service

The transportation impact fees are based on the future capital improvements identified in the City's Capital Improvement Plan (the "CIP") and the Kalispell Area Transportation Plan 2006 Update, April 2008, prepared by Robert Peccia & Associates. For the reasons discussed in the summary of the analysis of the other two municipalities, this reliance on the external planning documents appears to depart from the detailed methodology called for by the Act. *See* MCA § 7-6-1602.1(b), (c), (d), and (h).

The Act requires that the City forecast future additional needs for a defined period of time, MCA § 7-6-1602.1(c), and identify capital improvements necessary to meet the forecasted needs, MCA § 7-6-1602.1(d). As indicated in the chart, the Study appears to meet these requirements because it allocates only the percent of the planned improvements needed to maintain the existing volume to capacity ratio (V/C) in order to ensure that the new development is only paying for the capacity required to meet the new demand forecasted increase in volume attributed to the new development. The cost of each project, as identified in the CIP, was then adjusted to account for only the proportion of the future project serving new development. Likewise, Kalispell correctly does not allocate any future equipment costs to future development.

#### Determination of Service Area(s)

The Kalispell Study concludes that only one transportation service area is required without, however, making a finding that this is the most appropriate way to relate impact fees and benefits. *See* MCA § 7-6-1602.1(g).

#### Calculation of Costs for Correcting Existing Deficiencies and for Operation and Maintenance

The Study fails to calculate the costs for correcting existing deficiencies as well as the costs for the operation and maintenance of all improvements. See MCA § 7-6-1602.5(c) and (e). Exhibit 2 in the Study suggests that virtually 100% of the planned improvements are needed to meet the demand associated with new growth. The Study fails to show how this nearly 100% of the costs are attributable to new growth in that it does not demonstrate that the costs for correcting existing deficiencies and operation and maintenance are not included in the total costs.

By contrast, because the Study adjusts the future improvement costs to assume the same volume to capacity ratio, or the same level of congestion, on future roadways, it ensures that the new development is not held to a higher level of service than existing users. See MCA § 7-6-1602.5(d).

MT Impact Fee Enabling Act Requirements

C = Consistent with statute  
CU = Consistency Uncertain with statute  
I = Inconsistent with statute  
N/A = Not Applicable

MGA Section	Requirement	Consistency with Statute											
		Bozeman (Transportation)			Hamilton (Water & Wastewater)			Hamilton (Transportation)			Kalspell (Transportation)		
		C	CU	I	C	CU	I	C	CU	I	C	CU	I
7-6-1601.5.a	An impact fee may include a fee for the administration of the impact fee not to exceed 5% of the total impact fee collected.												
7-6-1601.7	Meets the Definition of "Public Facility"? "Public facilities" means:												
	(a) a water supply production, treatment, storage, or distribution facility;				X								X
	(b) a wastewater collection, treatment, or disposal facility;				X								X
	(c) a transportation facility, including roads, streets, bridges, rights-of-way, traffic signals, and landscaping;	X						X			X		
	(d) a storm water collection, retention, detention, treatment, or disposal facility or a flood control facility;												X
	(e) a police, emergency medical rescue, or fire protection facility; and												X
	(f) other facilities for which documentation is prepared as provided in [section 2] that have been approved as part of an impact fee ordinance or resolution by:												
	(i) a two-thirds majority of the governing body of an incorporated city, town, or consolidated local government; or												
	(ii) a unanimous vote of the board of county commissioners of a county government.												
7-6-1602.1	For each public facility for which an impact fee is imposed, the governmental entity shall prepare and approve documentation that:												
	(a) describes existing conditions of the facility;												
	(b) establishes level of service standards;												
	(c) forecasts future additional needs for service for a defined period of time;												
	(d) identifies capital improvements necessary to meet future needs for service;												
	(e) identifies those capital improvements needed for continued operation and maintenance of the facility;												
	(f) makes a determination whether one service area or more than one service area is necessary to establish a correlation between impact fees and benefits;												

<sup>1</sup> This "consistency uncertain" determination reflects the assessment that the supporting study did not provide sufficient detail, or may be outdated, or that certain references in the study raise questions as to whether the methodology employed was appropriate.

MCA Section	Requirement	Consistency with Statute											
		Bozeman (Transportation)			Hamilton (Water & Wastewater)			Hamilton (Transportation)			Kalispaill (Transportation)		
		C	CU <sup>2</sup>	I	N/A	C	CU <sup>1</sup>	I	N/A	C	CU <sup>1</sup>	I	N/A
	(g) makes a determination whether one service area or more than one service area for transportation facilities is needed to establish a correlation between impact fees and benefits;	X							X				
	(h) establishes the methodology and time period over which the governmental entity will assign the proportionate share of capital costs for expansion of the facility to provide service to new development within each service area;	X				X				X			
	(i) establishes the methodology that the governmental entity will use to exclude operations and maintenance costs and correction of existing deficiencies from the impact fee;	X					X						
	(j) establishes the amount of the impact fee that will be imposed for each unit of increased service demand;	X				X				X			
	(k) has a component of the budget of the governmental entity that:												
	(i) schedules construction of public facility capital improvements to serve projected growth;		X <sup>2</sup>				X <sup>2</sup>				X <sup>2</sup>		
	(ii) projects costs of the capital improvements;		X <sup>2</sup>				X <sup>2</sup>				X <sup>2</sup>		
	(iii) allocates collected impact fees for construction of the capital improvements;		X <sup>2</sup>				X <sup>2</sup>				X <sup>2</sup>		
	(iv) covers at least a 5-year period and is reviewed and updated at least every 2 years.	X <sup>2</sup>					X <sup>2</sup>				X <sup>2</sup>		

<sup>2</sup> This "consistency uncertain" determination reflects the assessment that the supporting study did not provide sufficient detail, or may be outdated, or that certain references in the study raise questions as to whether the methodology employed was appropriate.

<sup>3</sup> The Capital Improvement Plan was not available for our review and the description provided in the supporting documentation was not sufficient to make a determination of consistency with the statute.

<sup>4</sup> This assessment of consistency is based on the description of the Capital Improvement Plan provided in the Bozeman Study.

